S.B. CIVIL WRIT PETITION NO.5089/2003

Laxman Ram and others vs. State of Rajasthan & ors.

Date : 3.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. P.S. Bhati, for the petitioners.

Mr. Shyam Ladrecha, Addl. GA, for State.

Mr. Ravi Bhansali, for the KUMS.

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Heard learned counsel for the parties.

These 22 petitioners were bidders in the plots which were put to auction by Krishi Upaj Mandi Samiti, Sojat (for short "KUMS") and for that purpose, all the petitioners deposited the requisite amount when they were found successful bidders.

According to learned counsel for the petitioners, the petitioners were required to deposit 1/4th of the amount at the time of auction and the remaining amount was required to be deposited as per the Rules and there is no dispute upto that stage. The dispute came up only when the respondent no.4 KUMS informed the petitioners that in view of the directions issued by the respondent no.2, the petitioners are also required to take the plot of platform of equal size in addition to the plot for which they gave bid and for that purpose, the petitioners were asked to deposit same

amount of money which they deposited for the plot for which they applied.

According to learned counsel for the petitioners, the petitioners had no intention to either purchase or take on lease any plot of platform. It is also submitted by learned counsel for the petitioners that the petitioners were allotted plot as they gave highest bid and for that plot, the petitioners will have right to raise construction and, therefore, they are paying the huge amount for which they agreed. It is also submitted that construction over the platform is not permissible and Krishi Upaj Mandi Samiti wants to sell part of the platform to the petitioner on payment of same price as of plot for shop where the petitioner can raise construction also.

According to learned counsel for the petitioner, as per the auction notice itself and the conditions provided for allotment by auction, there is no condition that the petitioners will have to take the plot of platform also if they will purchase the plot of their choice. It is also submitted that unilateral decision is not binding upon the petitioners.

Learned counsel for KUMS submitted that the directions were issued by the State Government and they passed the consequential order only. Learned Addl. GA appearing for State submitted that since there is every likelihood that the persons who are allottees of the plot, they alone will use the plot

which is in front of their shop. Therefore, it has been decided that the cost of platform to the extent of measurement be recovered from the allottees.

I have considered the rival submissions.

It appears from the above facts itself that there is no dispute that the petitioners gave their bid for a particular plot and the decision was taken for giving the plots to the petitioners and for that purpose, the petitioners were asked to deposit 1/4th of the cost of plot allotted to them which they deposited. The petitioners are liable to pay the balance amount as per the Rules only. It is not the case of any of the respondents that the petitioners ever agreed for taking plot in front of their shop also and that too on the same price which they paid for the land allotted for construction of shop.

The respondents including the State could not give any reason for demanding the same amount of the cost for part of the platform from the petitioners and could not justify their action of forcing the petitioners to take part of platform. The respondents could not explain how that condition can become condition precedent for proceeding in the matter in relation to completion of sale of the plots which have been auctioned and have been taken by the petitioners and for which consideration has been taken by the

respondents.

In view of the above, asking the petitioners to take part of platform is absolutely without jurisdiction and illegal and the respondents cannot demand the cost of part of the platform from the petitioners.

This Court is not examining whether the land described as platform could have been allotted to the petitioners/allottees or not or the entire platform is required to be kept for the activities of trading etc. because that is not subject matter of the writ.

Accordingly, this writ petition is allowed and the demand as raised by the respondents is quashed and set aside. The respondents shall not deny the issuance of any document for the plot allotted to the petitioners in auction in accordance with the Rules and shall not insist for sale of part of platform on payment of cost of land as demanded by the respondents, unless the petitioners agree for that.

(PRAKASH TATIA), J.

S.Phophaliya